IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 25179 of 2007(V)

PETITIONER:

SOSAMMA THOMAS,
SENIOR GRADE DIETICIAN (UNDER ORDERS OF TRANSFER),
GENERAL HOSPITAL, ERNAKULAM.

BY ADV. SRI.C.S.ABDUL SAMMAD
SRI.V.D.BALAKRISHNA KARTHA

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF HEALTH SERVICES,
TRIVANDRUM.

3. ROSAMMA GEORGE,
SENIOR GRADE DIETICIAN, GENERAL HOSPITAL,
ERNAKULAM.

R1 & 2 BY GOVT. PLEADER SHRI. P.NANDAKUMAR
R3 BY ADV. SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 25179/07

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE DISABILITY CARD NO: KL EKM MR 2520

EXT.P2: -DO- OF THE REPRESENTATION DT. 1.7.2007 SYBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT

EXT.P3: -DO- OF THE ORDER G.O.(P) NO: 33/93/P&ARD DT. 18.6.1993

EXT.P4: -DO- OF THE ORDER G.O.(P) NO: 12/04/P& ARD DT. 10.9.04

EXT.P5: -DO- OF THE G.O.(RT) NO: 504/2005/H&FW DT. 21.2.2005

EXT.P6: -DO- OF THE ORDER NO: EE3-35127/07/DHS DT. 30.7.2007

EXT.P7: -DO- OF THE APPEAL PETITION DT. 2.8.2007 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT

jj /TRUE COPY/

P.A. TO JUDGE

APPENDIX IN W.P(C) 25179/07

V.GIRI,J.

W.P (C) No. 25179 of 2007

Dated this the 5th December, 2007

J U D G M E N T

The facts highlighted by the petitioner in this writ petition deserves very sympathetic consideration by the Government.

2. Petitioner is a Senior Grade Dietician working in the Medical College Hospital, Kozhikode. Petitioner was in the General Hospital, Ernakulam till recently. Petitioner's daughter Mary Jacob aged 18 years is a mentally retarded child. She is undergoing treatment at Ernakulam. A perusal of Exhibit-P1 Disability Certificate indicates that the child is mentally retarded. Obviously, nobody can look after the child as well as the mother. Apparently,even before the transfer effected under Exhibit-P6 order dated 30.7.2007, the petitioner had submitted Exhibit-P2 before the Director of Health Services pointing out the peculiar circumstances under which she is placed, necessitating her presence in Ernakulam to look after the teenage daughter. Under Exhibit-P6 order, the Director of Health Services transferred the petitioner to Kozhikode and 3rd respondent to Ernakulam. Though Exhibit-P6 order per se does not reveal any illegality, I am of the view that the petitioner's

request to be posted at Ernakulam requires serious consideration. I have taken note of the counter affidavit filed by the 3rd respondent in which it is submitted that she belongs to Chalakudy. Therefore, she has been seeking a posting in Ernakulam for a number of years. The 3rd respondent's husband is employed in Appollo Tyres at Chalakudy.

3. Learned Government Pleader Sri. Nandakumar submits that there are only six posts of senior Dieticians in the entire Health Services, and, four of them are in Thiruvananthapuram District. Taking note of the peculiar facts and circumstances involved in this case and especially the genuine hardship felt by the petitioner, I am of the view that the 1st respondent shall consider the request of the petitioner for a posting in Ernakulam.

In the circumstances, after hearing both sides, this writ petition is disposed of directing the 1st respondent to consider Exhibit-P7 and take a decision thereon in the light of the observations made in this judgment, after hearing the petitioner and the 3rd respondent, within a period of four weeks from the date of receipt of a copy of this judgment. If any other person

will be affected by the orders to be passed as mentioned above, such person shall also be heard by the Government before orders are passed. Petitioner is free to file an additional representation.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007